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**PRESENTATION OF THE
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

MONDAY, FEBRUARY 8, 2016
2:05 p.m.

**TESTIMONY ON H.B. NO. 2608
RELATING TO DEFERRED DEPOSITS**

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda, Commissioner of Financial Institutions ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs ("DCCA")
Division of Financial Institutions ("DFI"). We appreciate the opportunity to provide
comments on H.B. No. 2608.

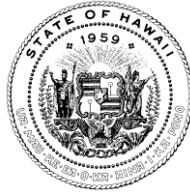
H.B. No. 2608 proposes to amend the Check Cashing law, Chapter 480F, Hawaii
Revised Statutes ("HRS") to essentially register check cashers and create a consumer
database. Highlights include the following. Check cashers would be registered with the

Department, and would provide a bond or other security. Check cashers would be required to allow an extended payment once every 12 months to a customer who is unable to repay a deferred deposit agreement. The Department Director ("Director") would establish, operate, and maintain a secure database of outstanding deferred deposit agreements, make it accessible to check cashers, and collect per transaction fees to cover the cost of access. Check cashers would check the database before lending to ensure that a customer has only one deferred deposit agreement at a time. The Director would examine check cashers and charge an examination fee. Under certain conditions, the director could revoke or suspend a check casher's registration. The maximum fine for a chapter violation would be increased, but the current penalty of imprisonment would be stricken.

Check cashing is a form of payday lending. DFI submits that this proposal will not rein in certain key issues with the industry, including high interest rates and fees that too frequently lead to a "cycle of debt" for consumers. The federal Consumer Financial Protection Bureau ("CFPB") has been studying the industry for several years and anticipates it will issue payday lending regulations sometime this year.

In view of the foregoing, DFI respectfully submits that it may be premature to proceed with this bill.

Thank you for the opportunity to comment on H.B. No. 2608. I would be pleased to respond to any questions that you may have.



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TESTIMONY ON HOUSE BILL 2608, RELATING TO DEFERRED DEPOSITS.

**TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND TO THE HONORABLE JUSTIN H. WOODSON, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs (“DCCA”), Office of Consumer Protection (“OCP”) appreciates the opportunity to testify on House Bill No. 2608, Relating to Deferred Deposits. My name is Stephen Levins and I am the Executive Director of the OCP, testifying in opposition to this measure.

House Bill No. 2608 creates a new registration requirement for check cashers, requires bonding, requires verification that the customer has only one deferred deposit agreement outstanding at any time, allows extended payment plans, creates a deferred

deposit agreement database, provides for on-site examinations, and increases penalties for violations.

The Department continues to support the Legislature's efforts to find ways to protect consumers against predatory lending. However, the Department notes that many other states have adopted a variety of initiatives to curb predatory lending practices and that many, if not most of those initiatives have had limited success. The Department submits that based on the experiences in other states, the most effective improvement that could be made to the current law would be to reduce the cost of the transaction for the consumer in the form of a cap on the allowable annual percentage rate of interest ("APR") charged to consumers.

The payday lending industry is currently able to charge our citizens an APR of up to 459%. Experience elsewhere has revealed that unless there is a drastic reduction in the APR, increased regulation, other than setting an APR cap as a safeguard, is not successful in protecting consumers from the long term debt trap associated with payday loans and will only increase the transaction costs borne by the consumer.

According to the Center for Responsible Lending ("CRL"), alternative regulatory approaches to protect against predatory lending in other states, including repayment plans and databases, have not been successful.

First, according to historic CRL research, repayment plans are only actually utilized on a small percentage of transactions nationwide. For example, in Florida, less than 1% of payday loan transactions are placed into the extended payment option. That

figure in Oklahoma was less than 2%. Finally, although Washington has in place some protections against the debt trap such as a limit of 8 loans in a 12 month period, the state also offers a no-cost repayment plan option. However, in 2014, only 14% of loans were converted to installment loans under this option.

Second, databases are effective at collecting transaction information, such as, APRs, amount of loans, number of loans, etc. - which actually provide the data of how deep the debt trap is, but they have proven to be ineffective by not addressing the real reason the debt trap is created. Also in Florida, a database is used in addition to other borrower protections (e.g., outstanding loan limitation of one loan, no roll overs, a 24 hours new loan “cooling off” period, and an available no-charge repayment plan option). Despite all these provisions, 63% of Florida loans go to borrowers with 12 or more loans per year, and 85% go to borrowers with seven or more loans per year.

CRL data for other states employing similar databases (e.g., Oklahoma, Indiana, and North Dakota, Michigan, Kentucky and others) are similarly bleak. In this case, since House Bill No. 2608 is not addressing the actual causes of the debt trap – notably the high allowable APR – the database will not be a useful tool.

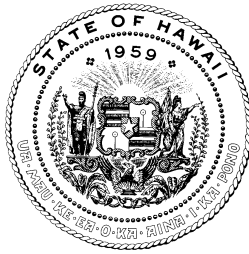
The OCP has consistently supported adopting a 36% APR cap. Such a cap would not be an aberration. On the contrary, limiting deferred deposit transactions for Hawaii consumers to 36% APR would be consistent with the growing trend around the country of providing more consumer protections for these loans. In the past few years alone, 16 jurisdictions have either banned payday loans outright or subjected them to a

36% APR or lower. These jurisdictions include: Arkansas; Arizona; Connecticut; The District of Columbia; Georgia; Maryland; Massachusetts; Montana; New Hampshire; New Jersey; New York; North Carolina; Ohio; Pennsylvania; Vermont; and West Virginia.

According to an April 2013 report issued by the National Consumer Law Center, the 36% rate cap also works on a practical level, where a 36% rate results in payments that payday borrowers are typically more likely to afford while actually paying off the loan. A 36% rate also forces lenders to offer longer term loans with a more affordable structure and to more carefully consider a borrower's ability to pay to avoid write offs.

Although the OCP supports the ongoing legislative efforts to find solutions, it does not believe that the collection of different regulatory mechanisms included in this bill will yield any appreciable benefit of protecting Hawaii's consumers from the widely recognized problems associated with payday lending without also including an effective APR cap.

Thank you for the opportunity to testify regarding House Bill No. 2608. I would be happy to answer any of the questions that the Committee members may have.



**TESTIMONY OF JAN K. YAMANE, ACTING STATE AUDITOR,
ON HOUSE BILL NO. 2608
RELATING TO DEFERRED DEPOSITS**

House Committee on Consumer Protection and Commerce

February 8, 2016

Chair McKelvey and Members of the Committee:

Thank you for the opportunity to testify in support of HB 2608. This purpose of this bill is to strengthen the enforcement of Chapter 480F, HRS (*Check Cashing*), by, among other things, requiring check cashers to be registered with the Department of Commerce and Consumer Affairs.

As you know, our *Report No. 05-11, Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans)* (December 2005) recommended, among other things, that Chapter 480F be amended to institute a mandatory registration program for all payday lenders to register their businesses with DCCA. This bill would implement that recommendation.

We also recommended that registration information should include proof of business registration with DCCA, the names of all owners of the company, and the names and addresses of all principals of the businesses.

Thank you for the opportunity to testify in support of HB 2608.

To: Chair McKelvey; Vice Chair Woodson
From: Khara Jabola-Carolus, Hawai'i Coalition for Immigrant Rights
Hrg: Tues., Feb. 8, 2016, at 2:00 p.m. in Rm. 309
Re: Testimony in Opposition to H.B. 2608



Chair McKelvey, Vice Chair Woodson and members of the House Committee, the Hawai'i Coalition for Immigrant Rights submits the following testimony in opposition to H.B. 2608.

Our Coalition is composed of over 100 immigration attorneys, faith leaders, and non-profit and community organizations on Maui and O'ahu, including the American Civil Liberties Union, Catholic Charities Hawai'i, UniteHere! Local 5, and Hawai'i Appleseed Center for Law and Economic Justice.

Immigrants are a prime target of the payday lending industry because they face difficult economic conditions and do not have basic access to capital. This is in part because immigrants experience difficulty cashing paychecks, accessing government benefits, and opening bank accounts. Through our community work, we also observe a citizenship-based wage gap in Hawai'i. Immigrants are more likely to be poorer and to occupy low-wage jobs than their U.S.-born counterparts, especially if they are women. For example, while U.S.-born women working full-time in Hawai'i are paid 86 cents for every dollar paid to U.S.-born men, non-citizen women are paid just 53 cents per every dollar paid to U.S.-born men, amounting to a yearly wage gap of over \$23,000.¹ Payday lenders are able to fully exploit the economic hardship of immigrant life by charging exorbitant interest fees that translate to interest rates above 400 percent. Indeed, payday lenders are located in Hawai'i's neighborhoods with the highest concentrations of foreign-born residents.

A central feature of this bill is the creation of a database that collects transaction information which can demonstrate the depth of the debt trap but which have proven to be ineffective in preventing harmful payday lending practices. Databases cannot stop the debt trap when the provisions specified in the law they are meant to enforce do not impact the reason consumers become trapped in a cycle of debt. For example, in Florida, lenders are required to report to a database, borrowers are limited to one outstanding loan at a time, may not roll over a loan, must wait 24-hours after paying off a loan before taking out another loan, and may enter a repayment plan at any point before they default for no charge. Despite these provisions, 63% of Florida payday loans go to borrowers with one dozen or more paydays loans per year, and 85% go to borrowers with seven or more loans per year.² Similarly, H.B. 2608 would not actually curb exploitative practices because it does not create a fully informed consumer, reduce the length of indebtedness of borrowers, or facilitate their eventual economic self-sufficiency.

Accordingly, our Coalition opposes H.B. 2608. Despite our disagreement with the bill, we appreciate the continued conversation on the payday lending at the Legislature. Thank you for this opportunity to testify.

Sincerely,

Khara Jabola-Carolus

¹ Migration Policy Institute, *Hawaii* (2013), <http://www.migrationpolicy.org/data/state-profiles/state/demographics/HI>.

² State of Lending: Payday Lending Practices and Abuses, Center for Responsible Lending (2013), <http://www.responsiblelending.org/state-of-lending/reports/10-Payday-Loans.pdf>

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 04, 2016 12:54 PM
To: CPCtestimony
Cc: leilani.maxera@gmail.com
Subject: *Submitted testimony for HB2608 on Feb 8, 2016 14:05PM*

HB2608

Submitted on: 2/4/2016

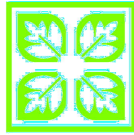
Testimony for CPC on Feb 8, 2016 14:05PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Leilani Maxera	The CHOW Project	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



COMMENTS RE: HB 2608: RELATING TO DEFERRED DEPOSITS

TO: Representative Angus L.K. McKelvey, Chair, Representative Justin H. Woodson, Vice Chair, and Members, Committee on Consumer Protection and Commerce

FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i

HEARING: **Monday, February 8, 2016; at 2:05 p.m.; Conf. Rm. 325**

Thank you for the opportunity to provide comments on HB 2608, which requires registration of check cashiers and other requirements. While we support the intent of the bill to increase the powers of the DCCA to enforce existing regulations, we are very concerned that the bill provides no ceiling to the APR that may be charged.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 60 years. CCH has programs serving individuals, elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. CCH's advocacy priority is reducing poverty in Hawai'i. Payday loans often put severe financial hardship on lower income people and may force them into homelessness.

Pope Francis has denounced payday lending and abusive loan sharks that exploit the vulnerable situation of families and individuals sliding into poverty: "When a family has nothing to eat, because it has to make payments to usurers, this is not Christian, it is not human! This dramatic scourge in our society harms the inviolable dignity of the human person" (1/29/14).

In 2006 the U.S. Department of Defense made it illegal to make loans with interest rates greater than 36% APR to active-duty service members and their families. Currently, 17 other states have adopted this policy and protected their consumers while allowing affordable small loans. At this rate of interest, borrowers are more likely to be able to pay back their loans without rolling them over into another loan and accruing more debt.

Clearly it is the poor who are using this type of financial product and in Hawai'i many people are struggling with the high cost of living. People living below the poverty line are especially hard hit in Hawaii, with the highest cost of shelter in the country. A family of four in Hawaii pays 68% more for food than families on the mainland. While this bill would increase DCCA powers to enforce existing regulations and create a database, it does not address the critical issue of protection of people from unreasonable rates and fees that force families deeper into poverty.

This bill also places a burden on the DCCA for additional duties without any additional staff. While a database may help to document the situation, is there capacity to do this?

We appreciate this opportunity to discuss one of the challenges faced by people living with low-incomes. Please contact me at (808)373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.



CLARENCE T. C. CHING CAMPUS • 1822 Ke'eaumoku Street, Honolulu, HI 96822
Phone (808)373-0356 • bettylou.larson@CatholicCharitiesHawaii.org



To: Representative Angus L.K. McKelvy, Chair
Representative Justin H. Woodson, Vice Chair
Committee on Consumer Protection and Commerce

From: R. Craig Schafer, President, Money Service Centers of Hawaii, Inc.

February 4, 2016

In support of the intent of HB2608

Last August the Hawaii Business magazine published an article titled *Payday Lenders*. In the article our company was incorrectly identified as the source of illegal loans. The article was later corrected and an apology issued to us. It told the story of an individual in Waianae and the illegal payday loans she obtained from a check casher. The company that provided the loans, illegal under Hawaii's check cashing law, has since closed its stores when it ran afoul of the Consumer Financial Protection Bureau which cited the company for illegal collection practices.

Money Service Centers of Hawaii, Inc. is a locally owned and operated money service business (MSB) headquartered in Kapaa, Kauai. We operate fee-based money service centers throughout the State under the trade name PayDayHawaii. Next month is our 16th anniversary in business. Local MSBs like us, who have operated legally in Hawaii for years, are just as appalled by the illegal transactions reported in the article and by faith-based organizations at last year's hearings.

We have built a reputation for strict adherence to all consumer financial laws. We have served over 39,000 individual clients under Hawaii's check cashing law with only a single complaint to the DCCA, later dismissed. We provide many financial services to Hawaii's working families including bill payment, tax preparation and filing, payroll check cashing, postal services, Western Union and Micro-Credit Advance short-term loans.

Our customers are regular people who are unwilling or unable to utilize traditional banking services, or find it more convenient to take care of their financial needs in one place, with the same person. Many live paycheck to paycheck, and don't have the luxury of a 401-k, an understanding employer, or family members with money to loan.

We neither practice nor condone the illegal "payday loan" transactions described in the Hawaii Business magazine article. PayDayHawaii does not charge upfront fees or additional excessive fees if a client has insufficient funds to pay the transaction in full by their due date. Nor will we extend credit to anyone that we determine has an existing payday loan, or similar 32-day-or-less credit transaction, from any storefront check casher, online lender, bank or credit union. As well, PayDayHawaii will never allow multiple open transactions or transactions on behalf of another individual.

Hawaii law does not allow any client to rollover the transaction principle by paying the fee. And only one short-term credit transaction is allowed per consumer from any source at one time, in the opinion of the DCCA. The most a delinquent client would ever owe under the law is the original transaction amount plus a \$20 insufficient funds charge. In the instance reported in the article, the maximum owed under the law should have been only principle amount plus the NSF charge.

PayDayHawaii voluntarily provides a payment plan to any individual after four consecutive transactions to discourage repeat borrowing. We encourage the Hawaii Legislature to make this a mandatory part of the check cashing law. Using short-term credit to solve a financial shortfall is not advised. Long-term amortized loans, plus financial counseling, best address such a need.

Our company recognizes the need for financial literacy to help improve our client's financial well-being. On the PayDayHawaii website (www.paydayhawaii.com), we offer a section on responsible borrowing, as well as a monthly blogs and email newsletters on financial topics. We also promote savings as a partner with AmericaSaves.org during America Saves Week each year. We would be happy to make available to nonprofit services, such as Hawaiian Community Assets mentioned in the Hawaii Business article, the extensive financial literacy library we have developed.

We encourage credit counselors, charitable and faith-based organizations to urge their clients who have been victims of illegal transactions under Hawaii's check cashing law to report violations to the DCCA. All residents of Hawaii are protected by this law regardless of whether they obtain a "payday loan" online or through a locally based check cashing business. Online lenders based out of state are some of the worst offenders.

There is a clear need for better enforcement of Hawaii's check cashing law, HRS480F. The bill before this committee, HB2608, gives the DCCA more enforcement powers. We support the intent of the bill but reservations on specifics such as bond amounts and the creation of a workable data base. We recommend that the committee to assign this bill to a task force composed of stakeholders, including local check cashing businesses and the DCCA, to create a workable bill designed to drive illegal lenders and check cashers out of the Hawaii market.

Thank you,

R. Craig Schafer

President
Money Service Centers of Hawaii, Inc.
DBA PayDayHawaii
4-901G Kuhio Hwy.
Kapaa, HI 96746
Phone: 808.822.5115

Maui Loan Inc.

February 5, 2016

Representative Angus L.K. McKelvey
Representative Justin H. Woodson
House Committee on Consumer Protection & Commerce
Hawaii State Legislature
Honolulu, HI 96813

FROM: Richard Dan, Operations Manager, Maui Loan Inc.

Dear Chair McKelvey and Members of the
House Committee on Consumer Protection & Commerce,

SUBJECT: **HB 2608 – RELATING TO DEFERRED DEPOSITS**

My name is Richard Dan, and I have been making small loans to Hawaii's working families for nearly 40 years. I **oppose in part HB 2608**.

I operate a local, regulated payday loan business. My business has a store in Wailuku on Maui, and if a customer has a complaint, they know where to find me and that they can file a complaint with DCCA. There are almost no complaints with DCCA regarding local payday lenders.

In a nutshell, there are 2 concerns with payday loans. The main one is that the **Internet and out-of-state payday lenders are unregulated**. HB 2608 does not address this, nor does HRS 480F.

The local problem concerns repeat loans. State law requires that loans be paid off in full, but allows a borrower to immediately apply for another loan. If there were a 5-day waiting or "cooling off" period, that would make borrowers think hard about whether they really need to borrow again, or how much.

There are 3 main objections to HB 2608:

1. **The database.** The proposed 480F-e(1) hits it on the head: "If the director has established a database. . . and "if. . . the database is inoperable . . ."

The state has had serious problems with other databases. Whether it can obtain one that works is doubtful, even if the database is operational, if it works only part of the time, how can we run a business in compliance of state law?

Practically speaking, the database will have to be global to be meaningful. That means covering all payday customers. There are also major privacy and access concerns.

Another practical consideration is the cost to develop the database. This could run in the millions. There are only a few payday lenders in Hawaii. None can afford to pay a pro-rata share of a multimillion-dollar IT expense.

2. **The Bond.** Lots of luck getting the Internet operators to post bonds. Some of them don't even come from the United States, still less Hawaii.

If the bond requirement does go through, longtime operators, who have not been causing problems, should be grandfathered and not required to make a bond.

3. **Installment Plan.** This could only work if the database works. In 2014 (in HR 154), when the Legislature was considering electronic reporting by pawnbrokers, a committee made up of one or two stakeholders from each interested sector was proposed. That was the right approach, because the payday database presents some of the same issues that the pawnbroker electronic reporting idea had. Stakeholders should include a make-up of businesses, DCCA and possibly the attorney general, since some constitutional questions probably are involved.

In summary, unless the Legislature can come up with workable methods of policing Internet lenders who may be based in Russia or Nigeria or who knows where, new burdens imposed on local businesses won't help consumers.

Once again, I cannot emphasize enough that the problems are not arising from the operations you already regulate. This is most likely because of the fact that you DO indeed regulate them. Unfortunately, I have no ideas how you can regulate Internet predatory lenders.

My staff has researched this and so far as we can tell, no state is successfully tackling Internet and out-of-state payday lenders, or fake payday lenders. See this report, for example, about how Internet payday "lenders" are just a front for identity thieves: <http://www.natlconsumersleague.org/personal-finance/64-fraud/550-fake-payday-loans-plaguing-consumers>.

The state has recognized that Internet lenders are dangerous to Hawaii workers. It issued a formal warning in 2014: <http://in-basement.beforeitsnews.com/politics/2014/09/state-urges-residents-to-exercise-caution-regarding-online-loans-2652244.html>

I don't think you want to encourage your constituents to turn to Internet hoodlums, but every new burden you put on the local brick-and-mortar operations makes it harder for us to compete with the Internet lenders. And, everything you do to make a consumer's application with a local company less convenient makes it easier for him to turn to the Internet.

Thank you for your thoughtful consideration of all these points and examples raised. If you have any questions, or if I can be of assistance with regard to this matter, please don't hesitate to call me at Tel: (808) 242-5555.

Sincerely,

Richard Dan

Richard Dan
Maui Loan Inc.



February 5, 2016

Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson
House Committee of Consumer Protection & Commerce
Hawaii State Capitol, Room 325
415 South Beretania Street
Honolulu, HI 96813

RE: HB 2608 Related to Deferred Deposits

Dear Chair McKelvey, Vice Chair Woodson, and Committee Members:

Thank you for the opportunity to submit testimony on behalf of Dollar Financial Group, Inc. (“DFG”) in support of House Bill No. 2608, relating to Deferred Deposits, which is to be heard by your Committee on Consumer Protection and Commerce at 2:00 p.m. on Monday, February 8, 2016.

DFG, through a subsidiary, operates 9 Money Mart stores in the State of Hawaii that offer deferred deposit transactions. We employ approximately 35 Hawaii residents who are drawn from the neighborhoods our stores serve. We urge you to support HB 2608 because it strengthens the consumer protections already contained in chapter 480F, Hawaii Revised Statutes (“HRS”), while allowing the industry to remain viable for those customers who uses it

Money Mart offers deferred deposit transactions, which are sometimes called payday loans, in accordance with HRS chapter 480F. These loans provide a convenient, reasonably-priced, well-regulated unsecured borrowing option for meeting small, short-term financial needs of up to \$600.

Borrowers must have a steady source of income and a personal checking account in order to qualify for a deferred deposit transaction. Our customers are typically middle-income, educated young families. On a national level, the customers represent 19 million American households, who choose deferred deposit loans as a cheaper alternative to bounced-check or overdraft protection fees or late bill payment penalties. These borrowers also find a deferred deposit transaction to be more desirable than asking family members for money or pledging collateral for a small-dollar loan. Deferred deposit loan customers are overwhelmingly satisfied with the service, a fact confirmed by state regulators and the Consumer Financial Protection Bureau (CFPB), which report very few complaints from their residents who use our service. Hawaii is

among this group, as indicated by the State of Hawaii Auditor's Sunrise Analysis on Check Cashing and Payday Loan Agreements, Report No. 05-11 (December 2005), which found "few complaints in Hawai'i and little evidence of harm."

DFG is a board member company of the Community Financial Services Association of America (CFSA), which is a national trade association for deferred deposit lenders that represents more than half of storefront locations nationally. CFSA supports state legislation that preserves access to small-dollar, short term credit, while maintaining substantive consumer protections. CFSA member companies have supported responsible legislation in the 32 states that regulate deferred deposit transactions, including Hawaii.

Across the country CFSA are committed to working with policymakers on state regulations that benefit consumers. We support balanced regulation that appropriately protects consumers without shutting down the industry.

In HRS chapter 480F, Hawaii already has a consumer friendly deferred deposit statute in place, with a cap on fees and on the amount that may be borrowed, as well as a prohibition on rolling over loans. HB 2608 would further enhances the existing consumer protections to create one of the most robust deferred deposit laws in the country as follows:

- HB 2608 requires check cashers to be registered with the Department of Commerce and Consumer Affairs ("DCCA"). This was a recommendation made by the State Auditor in her Sunrise Analysis on Check Cashing and Payday Loan Agreements, Report No. 05-11 (December 2005).
- HB 2608 requires check cashers to post a bond or other security of \$25,000 per location in the State.
- HB 2608 provides the DCCA with investigatory and enforcement powers and increases penalties for violations.
- HB 2608 requires that registered lenders bear the cost of DCCA investigations so there is no cost to the State.
- HB 2608 requires that deferred deposit lender provide an extended payment plan of the type that DFG already offers in compliance with CFSA best practices. Under this requirement, every customer has the right to change their single payment loan to a four payment installment loan once every 12 months. Those four payments would then be paid over their next four pay dates. This modification is at NO COST to customers.

Representative Angus L.K. McKelvey, Chair
Representative Justin H. Woodson
House Committee of Consumer Protection & Commerce
February 5, 2016
Page 3

- Finally, and perhaps most importantly, HB 2608 provides protection against borrowers having more than one deferred deposit transaction at any one time by (i) expanding the prohibition so that a deferred deposit lender cannot enter into a transaction with a customer that an existing deferred deposit transaction with that lender or with any other lender, and (ii) provides for the implementation of a statewide database, funded by fees charged to deferred deposit lenders, that will provide an effective means for enforcing the one loan limit.

While the Hawaii Auditor's Report found "few complaints in Hawai'i and little evidence of harm," DFG supports HB 2608 as a proactive measure to strengthen existing consumer protections under HRS chapter 480F and to discourage any unscrupulous lenders from operating in Hawaii.

We urge you to support HB 2608, and appreciate your consideration of our testimony.

Respectfully Submitted,

Lester Wm. Firstenberger, Esq.
Senior Vice President, Global Regulatory and Government Affairs



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

LATE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB 2608 Relating to Deferred Deposits
House Committee on Consumer Protection & Finance
Scheduled for Hearing Monday, February 8, 2016, 2:05PM, Room 325

Hawai'i Appleseed Center for Law and Economic Justice Hawai'i Appleseed is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

Dear Chair McKelvey, Vice Chair Woodson, and Members, Committee on Consumer Protection & Finance

Thank you for the opportunity to provide comments on HB 2608, which will increase the enforcement powers of the Department of Commerce and Consumer Affairs (DCCA) and introduce new requirements for check cashing and lending practices, including mandatory registration of check cashiers. While we support the broader intent of the bill to bring about greater industry oversight, we are concerned reforms proposed by HB 2608 will not sufficiently enhance protection for consumers in the absence of a cap on the interest rates that may be charged.

Currently in Hawai'i, payday lenders are permitted to charge high interest rates on loans marketed to low-income people as a way to help borrowers make ends meet. However, these loans often have the opposite effect, and in fact make the borrower's financial situation more precarious. According to the Center for Responsible Lending, only two percent of borrowers can afford to pay off the loan the first time. As a result, four out of five payday loan borrowers either default or renew a payday loan over the course of a year. The average payday loan borrower remains in debt for more than six months. Regulated, small dollar installment loans can be a safe product, but the payday loans as they exist in Hawai'i are not.

While the increase in DCCA enforcement power and stricter oversight envisioned by HB 2608 can help combat exploitative practices, such measures alone will not sufficiently address the problem. To resolve a problem caused largely by overly burdensome interest rates, we need to place a reasonable ceiling on the rates. In 2006, the U.S. Department of Defense made it illegal to make loans with interest rates greater than 36% APR to active-duty service members and their families. Currently, seventeen other states have adopted the same policy and protected their consumers while allowing affordable small loans. At this rate of interest, borrowers are more likely to be able to pay back their loans without rolling them over into another loan and accruing more debt.

Thank you very much for hearing and considering this important issue that seeks to address the need for greater protection against harmful lending practices. We support the intent of this bill, but hope it could be coupled with a reasonable cap on interest rates that will help to eliminate the harms being wrought on low-income consumers in Hawai'i.